

Occupational Health and Safety
Amendment Act

Consultation Draft

EXPLANATORY NOTES

SECTION 1.-Subsection 1. The definition of "constructor" is clarified. It now reads:

"constructor" means a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer.

Subsection 2. This is to clarify that "industrial establishment" for the purposes of the Act includes a place where ships are maintained.

Subsection 3. These definitions relate to the Office of Investigations, set up in section 2 for the purposes set out in section 12.

Subsection 4. "Mining developments" are taken out of the definition of construction "projects" in order to clarify that mining developments are governed by the mining regulations and not the construction regulations.

SECTION 2. The Office of Investigations is set up for the purposes of section 12.

SECTION 3.-Subsections 1, 2 and 3. The Act now provides that where the number of workers at a project regularly exceeds twenty, the constructor shall cause the workers to select at least one health and safety representative. The amendment to subsection 7(1) of the Act will require the constructor to do that when the number regularly exceeds ten. The new subsection 7(1a) will require the selection of a greater number of representatives when the regulations so provide and the new subsection 7(1b) will require the selection of at least one health and safety representative in a work place of more than five and fewer than twenty regular workers.

Subsection 4. The Act now requires that a health and safety representative inspect the work place not more than once a month. The amendment will require the representative to do it at least once a month. The present power of the Director to direct inspections at a different frequency is retained.

Subsection 5. The representative's powers are expanded to include the right to obtain information from the employer concerning strategies for conducting tests, to be consulted concerning such tests and to be present at their commencement. The representative is also given the power to obtain information from a constructor or an employer concerning the identification of potential or existing hazards and health and safety experience and practice in other industries.



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Subsection 6. This amendment ensures that the powers to be given to a representative under subsection 3(5) of the Bill will apply as well to a representative selected under the provisions of a collective agreement.

SECTION 4.-Subsection 1. Clause 8(1)(b) of the Act now exempts from the requirement that a joint health and safety committee be established in certain work places those workers who work,

- (a) in that part or those parts of a building used for office purposes,
- (b) in a shop where goods or services are sold or offered for sale to the public, except any part used as a factory,
- (c) in a building used for multiple residential accommodation,
- (d) in a library, museum or art gallery,
- (e) in a restaurant, hotel, motel or premises for which a licence or permit has been issued under the Liquor Licence Act except that part used as a kitchen or laundry,
- (f) in a theatre or place of public entertainment, or
- (g) in premises occupied and used by a fraternal or social organization or a private club.

The Bill will remove these exemptions and authorize the Lieutenant Governor in Council to make regulations exempting classes of employers or work places.

Subsection 2. The minimum size of a committee is changed from two to four persons. It is clarified that worker representatives are required to be from the work place and it is required that representatives of the employer be from the work place if there are any such representatives working there. Committees are required to have co-chairmen, one representing workers and one representing the employer, rather than one chairman. The Minister is authorized to issue guidelines for the composition, practice and procedure of committees.

Subsection 3. The committees powers are expanded to include the right to obtain information from the employer concerning strategies for conducting tests, to be consulted concerning such tests and to be present at their commencement.

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Subsection 4. The Act now requires that a member of the committee inspect the work place not more than once a month. The amendment would require the inspection to be made at least once a month. In either case the Director may direct inspections at a different frequency.

Subsection 5. This clarifies that the same member of the committee need not do all inspections under the previous subsection.

SECTION 5. Housekeeping.

SECTIONS 6 and 7. Added to the duties imposed on an employer are the requirements that the employer,

- (a) prepare a written policy that addresses the health and safety issues at the work place and develop and maintain a program for the implementation of it;
- (b) provide a committee or health and safety representative with the results of any tests conducted on behalf of the employer or on behalf of an inspector;
- (c) respond in thirty days to any recommendations of a committee or health and safety representative, with a timetable for implementation if the employer agrees with the recommendation and the reasons for disagreeing otherwise; and
- (d) carry out prescribed occupational health and safety training programs.

SECTION 8. The proposed section 18a of the Act. It is proposed that owners of property where construction work is carried out be required to provide to a prospective constructor, before entering a binding contract with the constructor, a list of all designated substances that are present or will be present on the project when work begins. Similarly, constructors will be required to ensure that prospective contractors and subcontractors are provided with such a list before entering a binding contract. Owners and constructors who fail to comply with this provision will be liable to the person to whom it should have been provided for any loss or damages.

The proposed section 19a of the Act. Directors and officers of corporations will be required to take all reasonable care to ensure that the Act and regulations and orders under them are complied with.

The proposed section 19b of the Act. Employers will be required to reimburse workers for all reasonable costs the worker incurs undergoing medical examinations or tests in

compliance with the Act and regulations and, where such examinations or tests occur during the working day, to pay the worker his or her regular wage.

The proposed section 19c of the Act. This clarifies that the confidentiality of occupational health and safety medical records is preserved and provides that employers may not seek access to those records without the consent of the worker to whom they relate.

The proposed section 19d of the Act. This provides that certain sections of the Act apply to self-employed persons as if they were employers.

SECTION 9. Section 21 of the Act requires persons to notify the Director before manufacturing, distributing or supplying new biological or chemical agents or combinations of such agents. Once that notice is given there is nothing in the Act to prevent the person from using them before approval is given for their use. The amendments would require the approval of the Director before the new agents are so used. They also clarify that this approval is required for the use of a new agent, whether alone or in combination with another, but not when the proportions of agents already approved are changed.

SECTION 10.-Subsections 1, 2, 4, 5 and 6. The worker's right to refuse to work is expanded to include the situation where the worker has reason to believe that an activity he or she is to engage in is likely to endanger someone or is in contravention of the Act.

Subsections 3 and 7. The Act now provides that pending the final determination of the validity of a refusal to work, no other worker shall be assigned to do that work without first being given notice of the refusal. The amendment set out in subsection (3) will prohibit replacement during the work place investigation stage. The amendment in subsection (7) will require that during any investigation by an inspector no other worker shall be assigned to do that work. The employer will be required to prepare a written report after the initial investigation and to provide a copy of it to the worker and the committee or health and safety representative, if any, and to retain the report for five years.

SECTIONS 11 and 12. Under section 24 of the Act where a worker believes that an employer has disciplined or dismissed him or her as a reprisal against the worker's acting in compliance with the Act or regulations or because the worker has sought enforcement of the Act or regulations, the worker can seek binding arbitration under the collective agreement or complain to the Labour Relations Board if the worker is a member of a union and complain to the Labour

Relations Board otherwise. The Board is then authorized to have an officer investigate and then, if it chooses, inquire into the matter, and make a number of determinations under the Labour Relations Act. Section 12 provides an additional remedy for workers - a complaint to the Office of Investigations, established under section 2 of this Bill. It provides a scheme whereby a Ministry investigator may investigate and attempt to settle the complaint and an arbitrator from the panel established under section 2 of the Bill may inquire and make a determination. This is similar to what the Board now does.

SECTION 13. A provision that an employer must give notice to a Director and to the committee, representative and trade union, if any, when a worker has an occupational illness is amended to apply as well when a worker may have an occupational illness.

SECTION 14.-Subsection 1. See note under section 10, subsections (1), (2), (4), (5) and (6).

Subsection 2. This expands the inspector's powers to allow an inspector to require an employer to cause tests to be conducted at the employer's expense and to provide reports of them.

Subsection 3. This authorizes inspectors to require production of materials concerning occupational health and safety programs, to inspect, examine and copy them and to attend such programs.

SECTION 15.-Subsection 1. This authorizes an inspector to provide in an order for compliance that an employer prepare and submit a compliance plan detailing how and when the employer proposes to comply.

Subsection 2. See note under section 10, subsections (1), (2), (4), (5) and (6).

Subsection 3. A stop work order now remains in effect until complied with or until the inspector has withdrawn or cancelled the order. The amendment would provide that a stop work order remains in effect until the inspector has withdrawn or cancelled it following a physical inspection.

SECTION 16. This new section of the Act provides that an employer shall submit to the Ministry written notice within two days of the time when the employer believes compliance has been achieved. The notice is to be accompanied by a statement of a committee member or a health and safety representative agreeing or disagreeing with the employer's view or a statement that the member or representative declines to make such a statement. The notice of compliance is to be posted in a conspicuous place for fourteen days following its submission. The section also provides that

the final determination of whether compliance has been achieved is left to the inspector.

SECTION 17. Employers are required to pay workers not less than seventy-five per cent of the workers' regular or premium wages during any period that there is no work for the worker because of a refusal or a stop work order. Proclamation of this provision for construction projects is delayed until a date to be named by the Lieutenant Governor.

SECTION 18. The maximum fine for a corporation convicted of an offence under the Act is increased from \$25,000 to \$250,000.

SECTION 19. The Attorney General or an agent for the Attorney General is given the right to require that an offence under this Act be presided over by a provincial judge rather than a justice of the peace.

SECTION 20. The Lieutenant Governor in Council is authorized to make regulations respecting the appointment of physicians who are to conduct medical examinations for the purposes of this Act or the regulations. Other regulation making powers arising out of the previous provisions are also included in this section.

CHAPTER 321

OCCUPATIONAL HEALTH AND SAFETY ACT

Interpre-
tation

1. In this Act,

1. "committee" means a joint health and safety committee established under this Act;

2. "competent person" means a person who,

i is qualified because of his knowledge, training and experience to organize the work and its performance,

ii is familiar with the provision of this Act and the regulations that apply to the work, and

iii has knowledge of any potential or actual danger to health or safety in the work place;

3. "construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project;

4. "constructor" means the owner unless a person undertakes or oversees the entire project for the owner, in which case it means that person.

5. "Deputy Minister" means the Deputy Minister of Labour;

6. "designated substance" means a biological, chemical or physical agent or combination thereof prescribed as a designated substance to which the exposure of a worker is prohibited, regulated, restricted, limited or controlled;
7. "Director" means an inspector who is appointed under this Act as a Director of the Occupational Health and Safety Division of the Ministry;
8. "employer" means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or sub-contractor to perform work or supply services;
9. "engineer of the Ministry" means a person who is employed by the Ministry and who is registered as a professional engineer or licensed as a professional engineer under the Professional Engineers Act;
10. "factory" means,
 - i. a building or place other than a mine, mining plant or place where homework is carried on, where,
 - A. any manufacturing process or assembling in connection with the manufacturing of any goods or products is carried on,
 - B. in preparing, inspecting, manufacturing, finishing, repairing, warehousing, cleaning or adapting for hire or sale any substance, article or thing, energy is,

1. used to work any machinery or device, or
 2. modified in any manner,
- C. any work is performed by way of trade or for the purposes of gain in or incidental to the making of any goods, substance, article or thing or part thereof,
 - D. any work is performed by way of trade or for the purposes of gain in or incidental to the altering, demolishing, repairing, maintaining, ornamenting, finishing, storing, cleaning, washing or adapting for sale of any goods, substance, article or thing, or
 - E. aircraft, locomotives, ships, or vehicles used for private or public transport are maintained,
- ii a laundry including a laundry operated in conjunction with,
 - A. a public or private hospital,
 - B. a hotel, or
 - C. a public or private institution for religious, charitable or educational purposes, and
 - iii a logging operation;
11. "health and safety representative" means a health and safety representative selected under this Act;

12. "homework" means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof by a person for wages in premises occupied primarily as living accommodation;
13. "industrial establishment" means an office building, factory, arena, shop or office, and any land, buildings and structures appertaining thereto;
14. "inspector" means an inspector appointed for the purposes of this Act and includes a Director;
- 14a. **"investigator" means an investigator in the Office of Investigations;**
15. "logging" means the operation of felling or trimming trees for commercial or industrial purposes and includes the measuring, storing, transporting or floating of logs and any such activities for the clearing of land;
- 15a. **" Manager" means the Manager of the Office of Investigations.**
16. "mine" means any work or undertaking for the purpose of opening up, proving, removing or extracting any metallic or non-metallic mineral or mineral-bearing substance, rock, earth, clay, sand or gravel;
17. "mining plant" means any roasting or smelting furnace, concentrator, mill or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any substance mentioned in paragraph 16;

18. "Minister" means the Minister of Labour;
19. "Ministry" means the Ministry of Labour;
20. "occupational illness" means a condition that results from exposure in a work place to a physical, chemical or biological agent to the extent that the normal physiological mechanisms are affected and the health of the worker is impaired thereby and includes an industrial disease as defined by the Workers' Compensation Act;
21. "owner" includes a trustee, receiver, mortgagee in possession, tenant, lessee, or occupier of any lands or premises used or to be used as a work place, and a person who acts for or on behalf of an owner as his agent or delegate;
22. "prescribed" means prescribed by a regulation made under this Act;
23. "project" means a construction project, whether public or private, including,
 - i the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking, lot, cofferdam, conduit, sewer, watermain, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof,
 - ~~ii mining development~~
 - iii the moving of a building or structure, and

24. "regulations" means the regulations made under this Act;
25. "shop" means a building, booth or stall or a part of such building, booth or stall where goods are handled, exposed or offered for sale or where services are offered for sale;
26. "supervisor" means a person who has charge of a work place or authority over a worker;
27. "trade union" means a trade union as defined in the Labour Relations Act that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in a work place and includes an organization representing workers or persons to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such workers or persons;
28. "work place" means any land, premises, location or thing at, upon, in or near which a worker works;
29. "worker" means a person who performs work or supplies services for monetary compensation but does not include,
 - i. an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program, or
 - ii. repealed, S.O. 1986 c.64, s. 44.

**Acting
Manager** (3) Where the Manager is absent or unable to act or where the office is vacant, the powers and duties of the Manager shall be exercised and performed by an employee of the Ministry designated by the Deputy Minister.

Investigators (4) Such persons as are considered necessary for the purposes of this Act and the regulations may be appointed as investigators.

Idem (5) The Manager may exercise the powers of an investigator.

**Appointment
of
arbitrators** (6) The Minister shall appoint during the Minister's pleasure such persons to a panel of arbitrators as he or she considers necessary for the purposes of this Act.

Remuneration (7) An arbitrator shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

**Mandatory
selection
of health
and safety
representa-
tives** 7.-(1) Where no committee has been established under section 8 and the number of workers at a project regularly exceeds ten, the constructor shall cause the workers to select at least one health and safety representative from among the workers on the project who do not exercise managerial functions.

Idem (1a) Under the prescribed circumstances, a constructor shall cause the workers to select the prescribed number of health and safety representatives under subsection (1).

Idem (1b) Where no committee has been established under section 8 in respect of a work place that is not a project and there are more than five and fewer than twenty workers regularly employed at the work place, the employer shall cause those workers to select at least one health and safety representative from among the workers at the work place who do not exercise managerial functions.

Order appointing health and safety representa- tive	(2) Where no committee has been established under section 8 and where no health and safety representatives have been selected under subsection (1) or (1b) , the Minister may, by order in writing, require a constructor or an employer to cause the selection of one or more health and safety representatives for a work place or a part or parts thereof from among the workers employed at the work place or in the part or parts thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representative or representatives.
Idem	(3) The Minister may from time to time give such directions as the Minister considers advisable concerning the carrying out of the functions of a health and safety representative.
What Minister shall consider	(4) In exercising the power conferred by subsection (2), the Minister shall consider the matters set out in subsection 8(4).
Selection of represen- tatives	(5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the work place, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.
Powers of represen- tative	(6) A health and safety representative may inspect the physical condition of the work place or the part or parts thereof for which he has been selected, as the case may be, at least once a month or at such intervals as a Director may direct, and it is the duty of the employer and the workers to afford the health and safety representative such information and assistance as may be required for the purpose of carrying out the inspection.

Idem (7) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his findings thereon to the employer, the workers and the trade union or trade unions representing the workers.

Idem (7a) A health and safety representative has the power,

(a) to obtain information from the constructor or employer concerning strategies for conducting or taking tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a work place and to be consulted concerning and be present at the commencement of any such tests conducted in or about the work place; and

(b) to obtain information from the constructor or employer respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

Notice of accident, inspection by representative (8) Where a person is killed or critically injured at a work place from any cause, the health and safety representative may, subject to subsection 25(2), inspect the place where the accident occurred and any machine, device or thing, and shall report his findings in writing to a Director.

Entitlement to time from work	(9) A health and safety representative is entitled to take such time from his work as is necessary to carry out his duties under subsections (6) and (8) and the time so spent shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper.
Addititional powers of certain health and safety representatives	(10) A health and safety representative or representatives of like nature appointed or selected under the provisions of a collective agreement or other agreement or arrangement between the constructor or the employer and the workers, has, in addition to his functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a health and safety representative by subsections (6), (7), (7a.) and (8).
Application	8. - (1) Subject to subsection (3), this section does not apply, (a) to a constructor or an employer who undertakes to perform work or supply services on a project; or (b) to an employer or work place or a class of employers or work places designated by the regulations.
Establishment of joint health and safety committees	(2) Subject to subsection (3), where, (a) twenty or more workers are regularly employed at a work place; (b) a regulation made in respect of a designated substance applies to a work place; or (c) an order to an employer is in effect under section 20,

the employer shall cause a joint health and safety committee to be established and maintained at the work place unless the Minister is satisfied that a committee of like nature or an arrangement, program or system in which the workers participate is, on the date this Act comes into force, established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, program or system provides benefits for the health and safety of the workers equal to, or greater than, the benefits to be derived under a committee established under this section.

Minister's
order

(3) Notwithstanding subsections (1) and (2), the Minister may, by order in writing, require a constructor or an employer to establish and maintain one or more joint health and safety committees for a work place or part thereof, and may, in such order, provide for the composition, practice and procedure of any committee so established.

What Minister
shall consider

(4) In exercising the power conferred by subsection (3), the Minister shall consider,

- (a) the nature of the work being done;
- (b) the request of a constructor, an employer, a group of the workers or the trade union or trade unions representing the workers in a work place;
- (c) the frequency of illness or injury in the work place or in the industry of which the constructor or employer is a part;
- (d) the existence of health and safety programs and procedures in the work place and the effectiveness thereof; and

- (e) such other matters as the Minister considers advisable.

Composition of committee (5) A committee shall consist of at least four persons or such greater number as is prescribed.

Idem (5a) At least half of the committee members shall be workers at the work place who do not exercise managerial functions.

Selection of members (5b) The members of a committee who represent workers shall be selected by the workers they are to represent or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

Idem (5c) The employer shall select the remaining members of the committee from persons who exercise managerial functions for the employer and where there are such persons at the work place, the employer shall select the remaining members from among those persons.

Committee to be co-chaired (5d) Two of the members of a committee shall co-chair the committee, and one of them shall be selected by the members who represent workers and the other shall be selected by the members who exercise managerial functions.

Guidelines for committee (5e) The Minister may issue guidelines for the use of committees in determining their composition, practice and procedure.

Powers of committee (6) It is the function of a committee and it has power to,

- (a) identify situations that may be a source of danger or hazard to workers;

- (b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;
- (c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health and safety of workers;
- (d) obtain information from the constructor or employer respecting;
 - (i) the identification of potential or existing hazards of materials, processes or equipment, and
 - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge, and
- (e) obtain information from the constructor or employer concerning strategies for conducting or taking tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a work place and to be consulted concerning and to select a member of the committee representing workers to be present at the commencement of any such tests conducted in or about the work place.

Minutes of
proceedings

(7) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector.

Powers of
designated
member

(8) The members of a committee who represent workers shall designate one of the members representing workers to inspect the physical condition of the work place, **at least** once a month or **at such intervals** as a Director may direct, and it is the duty of the employer and the workers to afford that member such information and assistance as may be required for the purpose of carrying out the inspection.

(8a) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection.

Idem

(9) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a work place from any cause and one of those members may, subject to subsection 25(2), inspect the place where the accident occurred and any machine, device or thing, and shall report his findings to a Director and to the committee.

Posting of
names and
work
locations

(10) A constructor or an employer required to establish a committee under this section shall post and keep posted at the work place the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.

Meetings

(11) A committee shall meet at least once every three months at the work place and may be required to meet by order of the Minister.

Entitlement
to time
from work

(12) A member of a committee is entitled to such time from his work as is necessary to attend meetings of the committee and to carry out his duties under subsections (8) and (9) and the time so spent shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper.

Additional powers of certain committees	(13) Any committee of a like nature to a committee established under this section in existence in a work place under the provisions of a collective agreement or other agreement or arrangement between a constructor or an employer and the workers, has, in addition to its functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a committee by this section.
Dispute resolution	(14) Where a dispute arises as to the application of subsection (2), or the compliance or purported compliance therewith by an employer, the dispute shall be decided by the Minister after consulting the employer and the workers or the trade union or trade unions representing the workers.
Summary to be furnished	9. - (1) For work places to which the <u>Workers' Compensation Act</u> applies, the Workers' Compensation Board, upon the request of an employer, a worker, committee, health and safety representative or trade union, shall send to the employer, and to the worker, committee, health and safety representative or trade union requesting the information an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number of lost workday cases, the number of lost workdays, the number of non-fatal cases that required medical aid without lost workdays, the incidents of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable.
Posting of copy of summary	(2) Upon receipt of the annual summary, the employer shall cause a copy thereof to be posted in a conspicuous place or places at the work place where it is most likely to come to the attention of the workers.

Director to provide information	(3) A Director shall, in accordance with the objects and purposes of this Act, ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection of the occupational health and occupational safety of workers generally.
Advisory Council on Occupational Health and Occupational Safety	10. - (1) There shall be a council to be known as the Advisory Council on Occupational Health and Occupational Safety composed of not fewer than twelve and not more than twenty members appointed by the Lieutenant Governor in Council on the recommendation of the Minister.
Terms of office of members	(2) The members of the Advisory Council shall be appointed for such term as the Lieutenant Governor in Council determines and shall be representative of management, labour and technical or professional persons and the public who are concerned with and have knowledge of occupational health and occupational safety.
Chairman and vice-chairman	(3) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman of the Advisory Council from among the members appointed.
Vacancies	(4) The Lieutenant Governor in Council may fill any vacancy that occurs in the membership of the Advisory Council.
Remuneration and expenses	(5) The remuneration and expenses of the members of the Advisory Council shall be determined by the Lieutenant Governor in Council and shall be paid out of the moneys appropriated therefor by the Legislature.

Powers of Advisory Council	(6) The Advisory Council, with the approval of the Minister, may make rules and pass resolutions governing its procedure, including the calling of meetings, the establishment of a quorum, and the conduct of meetings.
Idem	(7) The function of the Advisory Council is and it has power, <ul style="list-style-type: none">(a) to make recommendations to the Minister relating to programs of the Ministry in occupational health and occupational safety; and(b) to advise the Minister on matters relating to occupational health and occupational safety which may be brought to its attention or be referred to it.
Annual report	(8) The Advisory Council shall file with the Minister not later than the 1st day of June in each year an annual report upon the affairs of the Advisory Council.
Idem	(9) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.
Advisory committees	11. - (1) The Minister may appoint committees, which are not committees as defined in paragraph 1 of section 1, or persons to assist or advise the Minister on any matter arising under this Act or to inquire into and report to the Minister on any matter that the Minister considers advisable.
Remuneration and expenses	(2) Any person appointed under subsection (1) who is not an officer in the public service of the Province of Ontario may be paid such remuneration and expenses as may be from time to time fixed by the Lieutenant Governor in Council.

Assessment
to defray
expenses

12. - (1) the Lieutenant Governor in Council may fix an amount that shall be assessed and levied by the Workers' Compensation Board upon employers in Schedules 1 and 2 under the Workers' Compensation Act to defray the expenses of the administration of this Act and the regulations and such amount shall not exceed \$4,000,000 for the fiscal year in which this Act comes into force and shall be subject to increase in each subsequent fiscal year by a sum not exceeding 10 per cent of the amount fixed for the preceding fiscal year.

Method of
collection

(2) The Workers' Compensation Board shall add to the assessments and levies made under the Workers' Compensation Act upon employers in Schedules 1 and 2 of that Act a sum calculated as a percentage of the assessments and levies and which percentage shall be determined as the proportion that the amount fixed under subsection (1) bears to the total sum that the Workers' Compensation Board fixes and determines to be assessed for payment by employers in the said Schedules 1 and 2, and the Workers' Compensation Act applies to such sum and to the collection and payment thereof in the same manner as to an assessment and levy made under the Act.

(3) The Workers' Compensation Board shall collect the assessment and levy imposed under this section and shall pay the amount so collected to the Treasurer of Ontario.

PART III

DUTIES OF EMPLOYERS AND OTHER PERSONS

Duties of
constructor

13. - (1) A constructor shall ensure, on a project undertaken by the constructor that,

- (a) the measures and procedures prescribed by this Act and the regulations are carried out on the project;
- (b) every employer and every worker performing work on the project complies with this Act and the regulations; and
- (c) the health and safety of workers on the project is protected.

(2) Where so prescribed, a constructor shall, before commencing any work on a project, give to a Director notice in writing of the project containing such information as may be prescribed.

Duties of
employers

14. - (1) An employer shall ensure that,

- (a) the equipment, materials and protective devices as prescribed as provided;
- (b) the equipment, materials and protective devices provided by him are maintained in good condition;
- (c) the measures and procedures prescribed are carried out in the work place;
- (d) the equipment, materials and protective devices provided by him are used as prescribed; and
- (e) a floor, roof, wall, pillar, support or other part of a work place is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under the Building Code Act,

(2) Without limiting the strict duty imposed by subsection (1), an employer shall,

- (a) provide information, instruction and supervision to a worker to protect the health or safety of the worker;
- (b) when appointing a supervisor, appoint a competent person;
- (c) acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;
- (d) afford assistance and co-operation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of any their functions;
- (e) only employ in or about work place a person over such age as may be prescribed;
- (f) not knowingly permit a person who is under such age as may be prescribed to be in or about a work place;
- (g) take every precaution reasonable in the circumstances for the protection of a worker;
- (h) post, in the work place, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the work place, outlining the rights, responsibilities and duties of workers;

- (i) prepare and regularly update a written policy that addresses the health and safety issues of the employer's work place and develop and maintain a program for the implementation of that policy;
- (j) provide to the committee or to a health and safety representative the results of any report prepared under subsection 28(1) that is in the employer's possession and where that report is in writing, a copy of it; and
- (k) respond in writing to any recommendations of a committee or a health and safety representative within thirty days after receiving them.

(3) For the purposes of clause (2)(b), an employer may appoint himself as a supervisor where the employer is a competent person.

**Response to
committee**

(4) A response of an employer under clause (2)(k) shall contain a timetable for implementation of the recommendation where the employer agrees with it or the reasons for disagreeing with the recommendation where the employer disagrees with it.

**Additional
duties of
employers**

15. - (1) In addition to the duties imposed by section 14, an employer shall,

- (a) establish an occupational health service for workers as prescribed;
- (b) where an occupational health service is established as prescribed, maintain the same according to the standards prescribed;

- (c) keep and maintain accurate records of the handling, storage, use and disposal of biological, chemical or physical agents as prescribed;
- (d) accurately keep and maintain and make available, to the worker affected such records of the exposure of a worker to biological, chemical or physical agents as may be prescribed;
- (e) notify a Director of the use or introduction into a work place of such biological, chemical or physical agents as may be prescribed;
- (f) monitor at such time or times or at such interval or intervals the levels of biological, chemical or physical agents in a work place and keep and post accurate records thereof as prescribed;
- (g) comply with a standard limiting the exposure of a worker to biological, chemical or physical agents as prescribed;
- (h) where so prescribed, only permit a worker to work or be in a work place who has undergone such medical examinations, tests, or x-rays as prescribed and who is found to be physically fit to do the work in the work place;
- (i) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for the protection of a worker; and
- (j) **carry out such occupational health and safety training programs as may be prescribed.**

Idem (2) For the purposes of clause (1)(a), group of employers, with the approval of a Director, may act as an employer.

Duties of supervisor

16. - (1) A supervisor shall ensure that a worker,

- (a) works in the manner and with the protective devices, measures and procedures required by this Act and the regulations; and
- (b) uses or wears the equipment, protective devices of clothing that his employer requires to be used or worn.

Additional duties of supervisor

(2) Without limiting the duty imposed by subsection (1), a supervisor shall,

- (a) advise a worker of the existence of any potential or actual danger to the health or safety of the worker of which the supervisor is aware;
- (b) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for protection of the worker; and
- (c) take every precaution reasonable in the circumstances for the protection of a worker.

Duties of workers

17. - (1) A worker shall,

- (a) work in compliance with the provisions of this Act and the regulations;
- (b) use or wear the equipment, protective devices or clothing that his employer requires to be used or worn;

- (c) report to his employer or supervisor the absence of or defect in any equipment or protective device of which he is aware and which may endanger himself or another worker;
- (d) report to his employer or supervisor any contravention of this Act or the regulations or the existence of any hazard of which he knows; and
- (e) where so prescribed, have, at the expense of the employer, such medical examinations, tests or x-rays, at such time or times and at such place or places as prescribed.

Idem

- (2) No worker shall,
 - (a) remove or make ineffective any protective device required by the regulations or by his employer, without providing an adequate temporary protective device and when the need for removing or making ineffective the protective device has ceased, the protective device shall be replaced immediately;
 - (b) use or operate any equipment, machine, device or thing or work in a manner that may endanger himself or any other worker; or
 - (c) engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct.

Duties of
owners

18. - (1) The owner of a work place that is not a project shall,

- (a) ensure that,

- (i) such facilities as may be prescribed are provided,
- (ii) any facilities prescribed to be provided are maintained as prescribed,
- (iii) the work place complies with the regulations, and
- (iv) no work place is constructed, developed, reconstructed, altered or added to except in compliance with this Act and the regulations; and

- (b) where so prescribed, furnish to a Director any drawings, plans or specifications of any work place as prescribed.

Mine plans

- (2) The owner of a mine shall cause drawings, plans or specifications to be maintained and kept up to a date not more than six months last past on such scale and showing such matters or things as may be prescribed.

Plans of work places

- (3) Where so prescribed, an owner or employer shall,
 - (a) not begin any construction, development, reconstruction, alteration, addition or installation to or in a work place until the drawings, layout and specifications thereof and any alterations thereto have been filed with the Ministry for review by an engineer of the Ministry for compliance with this Act and the regulations; and
 - (b) keep a copy of the drawings as reviewed in a convenient location at or near the work place and such drawings shall be produced by the owner or employer upon the request of an inspector for his examination and inspection.

Additional information	(4) An engineer of the Ministry may require the drawings, layout and specifications to be supplemented by the owner or employer with additional information.
Fees	(5) Fees as prescribed for the filing and review of drawings, layout or specifications shall become due and payable by the owner or employer upon filing.
Duty of project owners	18a. - (1) An owner shall determine whether any designated substances are present on the owner's property before a project is commenced on the property and shall prepare a list of all designated substances that are present on the property.
Idem	(2) Before entering a binding contract with a prospective constructor of a project on an owner's property, the owner shall furnish the prospective constructor with a list of all designated substances that are present or that will be present on the project at the time work on the project begins.
Duty of constructors	(3) The constructor referred to in subsection (2) shall ensure that each prospective contractor and subcontractor for the project is given a copy of the list before the prospective contractor or subcontractor enter a binding contract for the supply of work on the project.
Liability	(4) An owner who fails to comply with subsection (1) is liable to the constructor and every contractor and subcontractor who suffers any loss or damages as the result of the subsequent discovery on the project of a designated substance that the owner ought reasonably to have known of but was not on the list prepared under that subsection.

Idem (5) An owner who fails to comply with subsection (2) is liable to the constructor and every subcontractor who suffers any loss or damages as the result of the subsequent discovery on the project of a designated substance that should have been on the list referred to in that subsection.

Idem (6) A constructor who fails to comply with subsection (3) is liable to every contractor and subcontractor who suffers any loss or damages as the result of the subsequent discovery on the project of a designated substance that was on the list referred to in subsection (2).

Duties of suppliers 19. - Every person who supplies any machine, device, tool or equipment under any rental, leasing or similar arrangement for use in or about a work place shall ensure,

- (a) that the machine, device, tool or equipment is in good condition;
- (b) that the machine, device, tool or equipment complies with this Act and the regulations; and
- (c) if it is his responsibility under the rental, leasing or similar arrangement to do so, that the machine, device, tool or equipment is maintained in good condition.

Duty of directors and officers 19a. Every director and every officer of a corporation has a duty to take all reasonable care to ensure that the corporation complies with,

- (a) this Act and the regulations;
- (b) orders and requirements of inspectors and Directors; and
- (c) orders of the Minister.

Duty of employers to pay costs	19b. An employer shall reimburse a worker for all reasonable costs, including travel costs, that the worker incurs in complying with a regulation or Director's order requiring the worker to undergo medical examinations or tests and the time so spent during the worker's regular working day shall be deemed to be work time for which the worker shall be paid by the employer at the worker's regular or premium rate as may be proper.
Medical records	19c.-(1) The provisions of the <u>Health Disciplines Act</u> and the regulations under it concerning confidentiality of medical records apply to any duly qualified medical practitioner, nurse or other health professional acting under the authority of this Act.
Idem	(2) No employer shall seek to gain access to any medical record concerning a worker without the worker's consent.
Self-employed persons	19d. Subsection 14(1), clauses 15(1)(c), (e), (f) and (g), subsection 20(1) and sections 21, 25, 26, 29, 29a, 31, 32 and 33 and the regulations thereunder apply with necessary modifications to a self-employed person as if that person were an employer.

PART IV

TOXIC SUBSTANCES

Orders of Director	20. - (1) Where a biological, chemical or physical agent or combination of such agents is used or intended to be used in the work place and its presence in the work place or the manner of its use is in the opinion of a Director likely to endanger the health of a worker, the Director shall by notice in writing to the employer order that the use, intended use, presence or manner of use be,
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- (a) prohibited;
- (b) limited or restricted in such manner as the Director specifies; or
- (c) subject to such conditions regarding administrative control, work practices, engineering control and time limits for compliance as the Director specifies.

(2) Where a Director makes an order to an employer under subsection (1), the order shall,

- (a) identify the biological, chemical or physical agent, or combination of such agents, and the manner of use that is the subject-matter of the order; and
- (b) state the opinion of the Director as to the likelihood of the danger to the health of a worker, and his reasons in respect thereof, including the matters or causes which give rise to his opinion.

Posting of
order

(3) The employer shall provide a copy of an order made under subsection (1) to the committee, health and safety representative and trade union, if any, and shall cause a copy of the order to be posted in a conspicuous place in the work place where it is most likely to come to the attention of the workers who may be affected by the use, presence or intended use of the biological, chemical or physical agent or combination of agents.

Appeal to
Minister

(4) Where the employer, a worker or a trade union considers that he or it is aggrieved by an order made under subsection (1), the employer, worker or trade union may by notice in writing given within fourteen days of the making of the order appeal to the Minister.

Delegation	(5) The Minister may, having regard to the circumstances, direct that an appeal under subsection (4) be determined on his behalf by a person appointed by him for that purpose.
Procedure	(6) The Minister or, where a person has been appointed under subsection (5), the person so appointed, may give such directions and issue such orders as he considers proper or necessary concerning the procedures to be adopted or followed and shall have all the powers of a chairman of a board of arbitration under subsection 44 (8) of the <u>Labour Relations Act</u> .
Substitution of findings	(7) On an appeal, the Minister or, where a person has been appointed under subsection (5), the person so appointed, may substitute his findings for those of the Director and may rescind or affirm the order appealed from or make a new order in substitution therefor and such order shall stand in the place of and have the like effect under this Act and the regulations as the order of the Director, and such order shall be final and not subject to appeal under this section.
Matters to be considered	<p>(8) In making a decision or order under subsection (1) or (7), a Director, the Minister, or, where a person has been appointed under subsection (5), the person so appointed shall consider as relevant factors,</p> <ul style="list-style-type: none">(a) the relation of the agent, combination of agents or by-product to a biological or chemical agent that is known to be a danger to health;(b) the quantities of the agent, combination of agents or by-product used or intended to be used or present;(c) the extent of exposure;

- (d) the availability of other processes, agents or equipment for use or intended use;
- (e) data regarding the effect of the process or agent on health; and
- (f) any criteria or guide with respect to the exposure of a worker to a biological, chemical or physical agent or combination of such agents that are adopted by a regulation.

Suspension
of order
by Minister,
etc., pending
disposition
of appeal

(9) On an appeal under subsection (4), the Minister or, where a person has been appointed under subsection (5), the person so appointed, may suspend the operation of the order appealed from pending the disposition of the appeal.

Remuneration
of appointee

(10) A person appointed under subsection (5) shall be paid such remuneration and expenses as the Minister, with the approval of the Lieutenant Governor in Council, may determine.

Application

(11) This section does not apply to designated substances.

No hearing
required
prior to
issuing order

(12) A Director is not required to hold or afford to an employer or any other person an opportunity for a hearing before making an order under subsection (1).

New biolo-
gical
or chemical
agents

21 (1) Except for purposes of research and development, no person shall manufacture, distribute or supply for commercial or industrial use in a work place any new biological or chemical agent whether alone or in combination with another agent without the written permission of the Ministry.

Notice of intention	(1a) Except for purposes of research and development, a person who intends to manufacture, distribute or supply for commercial or industrial use in a work place any new biological or chemical agent whether alone or in combination with another agent shall notify a Director in writing of that intention.
Contents of notice	(1b) The notice shall include the ingredients of such new agent and its common or generic name or names and the composition and properties of it.
Report on assessment	(2) Where in the opinion of the Director, which opinion shall be made promptly, the introduction of the new biological or chemical agent or combination of agents referred to in subsection (1) may endanger the health or safety of the workers in a work place, the Director shall require the manufacturer, distributor or supplier, as the case may be, to provide, at the expense of the manufacturer, distributor or supplier, a report or assessment, made or to be made by a person possessing such special, expert or professional knowledge or qualifications as are specified by the Director, of the agent or combination of agents intended to be manufactured, distributed or supplied and the manner of use including, the matters referred to in subclauses 28(1)(1)(i) to (vii).
Interpretation	(3) For the purpose of this section, "new biological or chemical agent" means any such agent other than those used in one or more work places and included in an inventory compiled or adopted by the Minister.
Designation of substances	<p>22. - Prior to a substance being designated under paragraph 14 of subsection 41(2), the Minister,</p> <p>(a) shall publish in <u>The Ontario Gazette</u> a notice stating that the substance may be designated and calling for briefs or submissions in relation to the designation; and</p>

- (b) shall publish in The Ontario Gazette a notice setting forth the proposed regulation relating to the designation of the substance at least sixty days before the regulation is filed with the Registrar of Regulations.

PART V

REFUSAL TO WORK WHERE HEALTH OR SAFETY IN DANGER

Application

23. - (1) This section does not apply to,

- (a) a person employed in, or who is a member of, a police force, to which the Police Act applies;
- (b) a full-time fire fighter as defined in the Fire Departments Act; or
- (c) a person employed in the operation of a correctional institution or facility, training school or centre, place of secure custody designated under section 24 of the Young Offenders Act (Canada) or place of temporary detention designated under subsection 7(1) of the Act, or other similar institution, facility, school or home.

Idem

(2) Where circumstances are such that the life, health or safety of another person or the public may be in imminent jeopardy, this section does not apply to a person employed in the operation of any of the following institutions, facilities or services whether granted aid out of moneys appropriated by the Legislature or not and whether operated for private gain or not:

1. A hospital, sanatorium, nursing home, home for the aged, psychiatric institution, mental health or mental retardation centre or a rehabilitation facility.
2. A residential group home or other facility for persons with behavioural or emotional problems or a physical, mental or developmental handicap.
3. An ambulance service or a first aid clinic or station.
4. A laboratory operated by the Crown or a laboratory licensed under the Public Health Act.
5. Any laundry, food service, power plant or technical service or facility belonging to, or used in conjunction with, any institution, facility or service referred to in paragraphs 1 to 4.

Refusal to
work

(3) A worker may refuse to work or do particular work where he has reason to believe that,

- (a) any equipment, machine, device or thing he is to use or operate **or any activity he is to engage in** is likely to endanger himself or another worker;
- (b) the physical condition of the work place or the part thereof in which he works or is to work is likely to endanger himself; or
- (c) any equipment, machine, device or thing he is to use or operate **or any activity he is to engage in** or the physical condition of the work place or the part thereof in which he works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself or another worker.

Report of
refusal
to work

(4) Upon refusing to work or do particular work, the worker shall promptly report the circumstances of his refusal to his employer or supervisor who shall forthwith investigate the report in the presence of the worker and, if there is such, in the presence of one of,

- (a) a committee member who represents workers, if any;
- (b) a health and safety representative, if any; or
- (c) a worker who because of his knowledge, experience and training is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

who shall be made available and who shall attend without delay.

Worker to
remain near
work station

(5) Until the investigation is completed, the worker shall remain in a safe place near his work station.

Other workers
not to be
assigned

(5a) Until the investigation is completed, no worker shall be assigned to use or operate the equipment, machine, device or thing, to engage in the activity or to work in the work place or the part thereof which is being investigated, except for the purpose of carrying out an investigation.

Report of
investigation

(5b) The employer forthwith after the investigation shall prepare a written report of the investigation and its results and provide copies of it to,

- (a) the worker;

(b) a committee member who represents workers, if any; and

(c) a health and safety representative, if any.

Idem

(5c) The employer shall retain a report prepared under subsection (5b) for five years.

Refusal to
work follow-
ing
investigation

(6) Where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that,

(a) the equipment, machine, device, thing **or activity** that was the cause of his refusal to work or do particular work continues to be likely to endanger himself or another worker;

(b) the physical condition of the work place or the part thereof in which he works continues to be likely to endanger himself; or

(c) any equipment, machine, device or thing he is to use or operate, **any activity he is to engage in** or the physical condition of the work place or the part thereof in which he works or is to work is in contravention of this Act or the regulations and such contravention continues to be likely to endanger himself or another worker,

the worker may refuse to work or do the particular work and the employer or the worker or a person on behalf of the employer or worker shall cause an inspector to be notified thereof.

Investigation by inspector	(7) An inspector shall investigate the refusal to work in the presence of the employer or a person representing the employer, the worker, and if there is such, the person mentioned in clause (4)(a), (b) or (c).
Decision of inspector	(8) The inspector shall, following the investigation referred to in subsection (7), decide whether the machine, device, thing, activity or the work place or part thereof is likely to endanger the worker or another person.
Idem	(9) The inspector shall give his decision, in writing, as soon as is practicable, to the employer, the worker, and, if there is such, the person mentioned in clause (4)(a), (b) or (c).
Worker to remain at a safe place pending decision	(10) Pending the investigation and decision of the inspector, the worker shall remain at a safe place near his work station during his normal working hours unless the employer, subject to the provisions of a collective agreement, if any, (a) assigns the worker reasonable alternative work during such hours; or (b) subject to section 24, where an assignment of reasonable alternative work is not practicable, gives other directions to the worker.
Other Workers not to be assigned	(11) Pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or thing, to engage in the activity or to work in the work place or the part thereof which is being investigated.

Entitlement to time from work	(12) The time spent by a person mentioned in clause (4)(a), (b) or (c) in carrying out his duties under subsections (4) and (7), shall be deemed to be work time for which the person shall be paid by his employer at his regular or premium rate as may be proper.
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PART VI

REPRISALS BY EMPLOYER PROHIBITED

No discipline, dismissal, etc., by employer	<p>24. - (1) No employer or person acting on behalf of an employer shall,</p> <ul style="list-style-type: none">(a) dismiss or threaten to dismiss a worker;(b) discipline or suspend or threaten to discipline or suspend a worker;(c) impose any penalty upon a worker; or(d) intimidate or coerce a worker,
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because the worker has acted in compliance with this Act or the regulations or an order made thereunder or has sought the enforcement of this Act or the regulations.

Arbitration	(2) Where a worker complains that an employer or person acting on behalf of an employer has contravened subsection (1), the worker may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply, with all necessary modifications, to the complaint.
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Inquiry by Ontario Labour Relations Board	(3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection (2), and section 89 of the <u>Labour Relations Act</u> , except subsection (5), applies with all necessary modifications, as if such section, except subsection (5), is enacted in and forms part of this Act.
Idem	<p>(4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), sections 102, 103, 106, 108 and 109 of the <u>Labour Relations Act</u> apply, with all necessary modifications.</p> <p>(5) On an inquiry into a complaint filed under subsection (2), or subsection 24 a (1), the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection (1) lies upon the employer or the person acting on behalf of the employer.</p>
Jurisdiction when complaint by Crown employee	(6) The Ontario Labour Relations Board shall exercise jurisdiction under this section on a complaint by a Crown employee that the Crown has contravened subsection 1.
Substitute penalty	(7) Where on an inquiry into a complaint filed under subsection (2) or subsection 24a (1), the Board or arbitrator, as the case may be, determines that a worker has been discharged or otherwise disciplined by an employer for cause and the contract of employment or the collective agreement, as the case may be, does not contain a specific penalty for the infraction, the Board or arbitrator may substitute such other penalty for the discharge or discipline as to the Board or arbitrator seems just and reasonable in all the circumstances.

Exception	(8) Notwithstanding subsection (2) or subsection 24a (1) a person who is subject to a rule or code of discipline under the <u>Police Act</u> shall have his complaint in relation to an alleged contravention of subsection (1) dealt with under that Act.
Complaint of non-unionized worker	24a. - (1) Notwithstanding subsection 24(2), where a worker complains that an employer or person acting on behalf of an employer has contravened subsection 24(1), the worker may elect to file a complaint with the Office of Investigations rather than with the Ontario Labour Relations Board.
Investigator to inquire	(2) The Manager may authorize an investigator to inquire into any complaint filed under subsection (1).
Duties	(3) The investigator shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of.
Powers of investigation	(4) An investigator, for the purpose of carrying out his or her duties, (a) may enter any place at any reasonable time; (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties; (c) upon given a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them; and

- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination.

Report

- (5) The Investigator shall report the results of his or her inquiry and endeavours to the Manager.

Arbitration

- (6) Where an investigator is unable to effect a settlement of the matter complained of or where the Manager in his or her discretion considers it advisable to dispense with an inquiry by an investigator, the Manager may assign an arbitrator from the panel established under subsection 6a(6) to inquire into the complaint.

**Practice and
procedure**

- (7) The arbitrator shall determine his or her own practice and procedure but shall give full opportunity to any persons affected by a determination to present their evidence and to make their submissions.

**Powers and
duties of
arbitrator**

- (8) The arbitrator shall exercise such powers and perform such duties as are conferred on an arbitrator by this Act and without limiting the generality of the foregoing the arbitrator has power,

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the arbitrator considers requisite to the full investigation and consideration of matters within his or her jurisdiction in the same manner as a court of record in civil cases;
- (b) to administer oaths;
- (c) to accept such oral or written evidence as the arbitrator in his or her discretion considers proper, whether admissible in a court of law or not;

- (d) to require the employer to post and to keep posted in a conspicuous place or places, where they are most likely to come to the attention of the workers concerned, any notices that the arbitrator considers necessary to bring to the attention of the workers in connection with the proceedings;
- (e) to enter any premises where work is being or has been done by the workers or in which the employer carries on business, whether or not the premises are those of the employer, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter and post therein any notice referred to in clause (d).

Idem (9) The arbitrator has all the powers of an investigator for the purposes of this section.

Parties (10) The employer, the worker who made the complaint and such other persons as the arbitrator may specify are parties to a proceeding under this section.

Determination (11) Where the arbitrator is satisfied that an employer or person acting on behalf of an employer has acted contrary to this Act, the arbitrator shall determine what, if anything the employer shall do or refrain from doing with respect thereto and such determination, without limiting the generality of the foregoing may include anyone or more of,

- (a) an order directing the employer to cease doing the act or acts complained of;
- (b) an order directing the employer to rectify the act or acts complained of; or

- (c) an order to reinstate in employment the worker, with or without compensation, or to compensate in lieu of reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the arbitrator against the employer.

Jurisdiction

(12) The arbitrator has exclusive jurisdiction to exercise the powers conferred upon an arbitrator by or under this Act and to determine all questions of fact or law that arise in any matter before him or her, and the action or decision of the arbitrator thereon is final and conclusive for all purposes.

**Arbitrator's
determination
not subject
to review**

(13) No determination of the arbitrator shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in any court to question, review, prohibit or restrain the arbitrator or any of the arbitrator's proceedings.

**Enforcement
of determina-
tion**

(14) Where the employer has failed to comply with of the terms of the determination, any worker affected by the determination may, after the expiration of fourteen days from the date of the release of the determination or the date provided in the termination for compliance, whichever is later, notify the Manager in writing of such failure, and thereupon the Manager shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, if any, whereupon the determination shall be entered in the same way as a judgment or order of that court and is enforceable as such.

**Testimony
in civil
suits, etc.**

(15) No investigator or arbitrator shall be required to give testimony in any civil suit or in any other proceeding respecting information obtained in the discharge of his or her duties or while acting within the scope of his or her employment under this Act.

Non
application
of R.S.O. 1980,
c. 25

(16) The Arbitrations Act does not apply to an arbitrator under this Act.

PART VII

Notices

Notice of
death or
injury

25. - (1) Where a person is killed or critically injured from any cause at a work place, the constructor, if any, and the employer shall notify an inspector, and the committee, health and safety representative and trade union, if any, immediately of the occurrence by telephone, telegram or other direct means and the employer shall, within forty-eight hours after the occurrence, send to a Director a written report of the circumstances of the occurrence containing such information and particulars as the regulations may prescribe.

Preservation
of wreckage

(2) Where a person is killed or is critically injured at a work place no person shall, except for the purpose of,

- (a) saving life or relieving human suffering;
- (b) maintaining an essential public utility service or a public transportation system; or
- (c) preventing unnecessary damage to equipment or other property,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector.

Notice of accident, explosion or fire causing injury	26. - (1) Where an accident, explosion or fire causes injury to a person at a work place whereby he is disabled from performing his usual work or requires medical attention, and such occurrence does not cause death or critical injury to any person, the employer shall give notice in writing, within four days of the occurrence, to a Director, and to the committee, health and safety representative and trade union, if any, containing such information and particulars as may be prescribed.
Notice of occupational illness	(2) Where an employer is advised by a worker or by a person on behalf of the worker that the worker may have an occupational illness, the employer shall give notice in writing, within four days of being so advised, to a Director and to the committee, health and safety representative and trade union, if any, containing such information and particulars as may be prescribed.
Idem	(3) Subsection (2) applies, with all necessary modifications, where an employer is advised by a former worker of the employer or a person on behalf of such worker, that such worker may have or may have had an occupational illness.
Accidents, explosions, etc., at a project site or mine	27. - Where a notice or report is not required under section 25 or 26 and an accident, premature or unexpected explosion, fire, flood or inrush of water, failure of any equipment, machine, device, article or thing, cave-in, subsidence, rockburst, or other incident as prescribed occurs at a project site, mine or mining plant, notice in writing of the occurrence shall be given to a Director and to the committee, health and safety representative and trade union, if any, by the constructor of the project or the owner of the mine or mining plant within two days of the occurrence containing such information and particulars as may be prescribed.

PART VIII

ENFORCEMENT

Powers of Inspector

- 28.** - (1) An inspector may, for the purposes of carrying out his duties and powers under this Act and the regulations,
- (a) subject to subsection (2), enter in or upon any work place at any time without warrant or notice;
 - (b) take up or use any machine, device, article, thing, material or biological, chemical or physical agent or part thereof;
 - (c) require the production of any drawings, specifications, licence, document, record or report, and inspect, examine and copy the same;
 - (d) upon given a receipt therefor, remove any drawings, specifications, licence, document, record or report inspected or examined for the purpose of making copies thereof or extracts therefrom, and upon making copies thereof or extracts therefrom, shall promptly return the same to the person who produced or furnished them;
 - (e) conduct or take tests of any equipment, machine, device, article, thing, material, biological, chemical or physical agent **or activity** in or about a work place and for such purposes, take and carry away such samples as may be necessary;
 - (ea) **require in writing an employer to cause any tests described in clause (e) to be conducted or taken, at the expense of the employer, by a person possessing**

such special expert or professional knowledge or qualifications as are specified by the inspector and to provide, at the expense of the employer, a report or assessment to be made by that person.

- (f) in any inspection, examination, inquiry or test, be accompanied and assisted by or take with him any person or persons having special, expert or professional knowledge of any matter, take photographs, and take with him and use any equipment or materials required for such purpose;
- (g) make inquiries of any person who is or was in a work place either separate and apart from another person or in the presence of any other person that are or may be relevant to an inspection, examination, inquiry or test;
- (h) require that a work place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, investigation or test;
- (i) require that any equipment, machine, device, article, thing or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, inquiry or test;
- (j) require in writing an owner, constructor or employer to provide, at the expense of the owner, constructor or employer, a report bearing the seal and signature of a professional engineer stating,
 - (i) the load limits of a floor, roof or temporary work or part of a building, structure or temporary work,

- (ii) that a floor, roof or temporary work is capable of supporting or withstanding the loads being applied to it or likely to be applied to it, or
 - (iii) that a floor, roof or temporary work, or part of a building, structure or temporary work is capable of supporting or withstanding all loads to which it may be subject without exceeding the allowable unit stresses for the materials used as provided under the Building Code Act.
- (k) require in writing an owner of a mine or part thereof to provide, at his expense, a report in writing bearing the seal and signature of a professional engineer stating that the ground stability of, the mining methods and the support or rock reinforcement used in the mine or part thereof is such that a worker is not likely to be endangered;
- (l) require in writing an employer to produce any record or information, or to provide, at the expense of the employer, a report or assessment, made or to be made by a person possessing such special, expert or professional knowledge or qualifications as are specified by the inspector, of any process or biological, chemical or physical agents or combination of such agents used or intended to be used in a work place, and the manner of use including,
 - (i) the ingredients thereof and their common or generic name or names,
 - (ii) the composition and the properties thereof,

- (iii) the toxicological effect thereof,
 - (iv) the effect of exposure thereto whether by contact, inhalation or ingestion,
 - (v) the protective measures used or to be used in respect thereof,
 - (vi) the emergency measures used or to be used to deal with exposure in respect thereof, and
 - (vii) the effect of the use, transport and disposal thereof; and
- (m) require the production of any materials concerning the content, frequency and manner of instruction of any occupational health and safety training program, inspect, examine and copy the same and attend any such program.**

Entry to
dwellings

(2) An inspector shall only enter a dwelling or that part of a dwelling actually being used as a work place with the consent of the occupier or under the authority of a search warrant issued under section 16 of the Summary Convictions Act.

Representa-
tive to
accompany
inspector

(3) Where an inspector makes an inspection of a work place under the powers conferred upon him under subsection (1), the constructor, employer or group of employers shall afford a committee member representing workers or a health and safety representative, if any, or a worker selected by a trade union or trade unions, if any, because of his knowledge, experience and training, to represent it or them and, where there is no trade union, a worker selected

by the workers because of his knowledge, training and experience to represent them, the opportunity to accompany the inspector during his physical inspection of a work place, or any part or parts thereof.

Consultation
with
workers

(4) Where there is no committee member representing workers, health and safety representative or worker selected under subsection (3), the inspector shall endeavour to consult during his physical inspection with a reasonable number of the workers concerning matter of health and safety at their work.

Entitlement
to time from
work

(5) The time spent by a committee member representing workers, health and safety representative or worker selected in accordance with subsection (3) in accompanying an inspector during his physical inspection, shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper.

Order by
inspectors
where non-
compliance

29. - (1) Where an inspector finds that a provision of this Act or the regulations is being contravened, he may order, orally or in writing, the owner, constructor, employer, or person whom he believes to be in charge of a work place or the person whom he believes to be the contravener to comply with the provision and may require the order to be carried out forthwith or within such period of time as the inspector specifies.

Idem

(2) Where an inspector makes an oral order under subsection (1), he shall confirm the order in writing before leaving the work place.

Contents of
order

(3) An order made under subsection (1) shall indicate generally the nature of the contravention and where appropriate the location of the contravention.

Compliance Plan	(3a) An order made under subsection (1) may require an employer to submit a compliance plan to the Ministry specifying what the employer intends to do to comply with the order and when the employer intends to achieve compliance and the compliance plan shall be prepared in the manner and include such items as are required by the order.
Order by inspector where worker endangered	<p>(4) Where an inspector makes an order under subsection (1) and finds that the contravention of this Act or the regulations is a danger or hazard to the health or safety of a worker he may,</p> <p>(a) order that any place, equipment, machine, device, article or thing or any process or material shall not be used or any activity shall not be engaged in until the order is complied with;</p> <p>(b) order that work at the work place as indicated in the order shall stop until the order to stop work is withdrawn or cancelled by an inspector after a physical inspection. (Also note that "the order is complied with" has been removed).</p> <p>(c) order that the work place where the contravention exists be cleared of workers and isolated by barricades, fencing or any other means suitable to prevent access thereto by a worker until the danger or hazard to the health or safety of a worker is removed.</p>
Posting of notice	(5) Where an inspector makes an order under this section, he may affix to the work place, or to any equipment machine, device, article, or thing, a copy thereof or a notice in the prescribed form and no person, except an inspector, shall remove such copy or notice unless authorized to do so by an inspector.

Idem	(6) Where an inspector makes an order in writing or issues a report of his inspection to an owner, constructor, employer or person in charge of the work place, the owner, constructor employer or person in charge of the work place shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places at the work place where it is most likely to come to the attention of the workers and shall furnish a copy of such order or report to the health and safety representative and the committee, if any, and the inspector shall cause a copy thereof to be furnished to a person who has complained of a contravention of this Act or the regulations.
No hearing required prior to making order	(7) An inspector is not required to hold or afford to an owner, constructor, employer or any other person an opportunity for a hearing before making an order.
Entry into barricaded area	30. - Where an order is made under clause 29(4)(c), no owner, constructor, employer or supervisor shall require or permit a worker to enter the work place except for the purpose of doing work that is necessary or required to remove the danger or hazard and only where the worker is protected from the danger or hazard.
Notice of compliance	30a. - (1) Within two days after the employer believes that compliance with an order under section 29 has been achieved, the employer shall submit to the Ministry a notice of compliance.
Idem	(2) The notice shall be signed by the employer and shall be accompanied by, (a) a statement of agreement or disagreement with the contents of the notice, signed by a member of the committee representing workers or by a health and safety representative; or

	(b) a statement that the member or representative has declined to sign the statement.
Idem	(3) The employer shall post the notice for a period of fourteen days following its submission to the Ministry in a conspicuous place or places in the work place where it is most likely to come to the attention of the workers.
Compliance achieved	(4) Notwithstanding the submission of a notice of compliance, an employer achieves compliance with an order under section 29 when an inspector determines that compliance has been achieved.
Injunction proceedings	31. In addition to any other remedy or penalty therefor, where an order made under subsection 29(4) is contravened, such contravention may be restrained upon an <u>ex parte</u> application to a judge or local judge of the Supreme Court made at the instance of a Director.
Worker's right to be paid	31a. - (1) Where there is no work for a worker because of a refusal to work under section 23 or an order under subsection 29(4), the employer shall pay to the worker not less than seventy-five per cent of the worker's regular or premium rate for the period of time for which there is no work, as may be proper.
Exception	(2) Subsection (1) does not apply to workers at a project until a day to be named by proclamation of the Lieutenant Governor.
Appeals from order of an inspector	32. - (1) Any employer, constructor, owner, worker or trade union which considers himself or itself aggrieved by any order made by an inspector under this Act or the regulations may, within fourteen days of the making thereof, appeal to a Director who shall hear and dispose of the appeal as promptly as is practicable.

Method	(2) An appeal to a Director may be made in writing or orally or by telephone, but the Director may require the grounds for appeal to be specified in writing before the appeal is heard.
Parties	(3) The appellant, the inspector from whom the appeal is taken and such other persons as a Director may specify are parties to an appeal under this section.
Powers of a Director	(4) On an appeal under this section, a Director may substitute his findings for those of the inspector who made the order appealed from and may rescind or affirm the order or make a new order in substitution therefor, and for such purpose has all the powers of an inspector and the order of the Director shall stand in the place of and have the like effect under this Act and the regulations as the order of the inspector.
Order, extended meaning	(5) In this section, an order of an inspector under this Act or the regulations includes any order or decision made or given or the imposition of any terms of conditions therein by an inspector under the authority of this Act or the regulations or the refusal to make an order or decision by an inspector.
Decision of Director final	(6) A decision of the Director under this section is final.
Suspension of order by Director pending disposition of appeal	(7) On an appeal under subsection (1), a Director may suspend the operation of the order appealed from pending the disposition of the appeal.

Application	(8) This section does not apply to the order of a Director made under section 20.
Obstruction of inspector	33. - (1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act or the regulations.
Assistance to inspector	(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination, testing or inquiry by an inspector in the exercise of his powers or performance of his duties under this Act or the regulations.
False information etc.	(3) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act or the regulations.
Monitoring devices	(4) No person shall interfere with any monitoring equipment or device in a work place.
Obstruction of committee, etc.	(5) No person shall knowingly, (a) hinder or interfere with a committee, a committee member or a health and safety representative in the exercise of a power or performance of a duty under this Act; (b) furnish a committee, a committee member or a health and safety representative with false information in the exercise of a power or performance of a duty under this Act; or

- (c) hinder or interfere with a worker selected by a trade union or trade unions or a worker selected by the workers to represent them in the exercise of a power or performance of a duty under this Act.

Information
confidential

34. - (1) Except for the purposes of this Act and the regulations or as required by law,

- (a) an inspector, a person accompanying an inspector or a person who, at the request of an inspector, makes an examination, test or inquiry, shall not publish, disclose or communicate to any person any information, material, statement, report or result of any examination, test or inquiry acquired, furnish, obtained, made or received under the powers conferred under this Act or the regulations;
- (b) no person shall publish, disclose or communicate to any person any secret manufacturing process or trade secret acquired, furnished, obtained, made or received under the provisions of this Act or the regulations;
- (c) no person to whom information is communicated under this Act and the regulations shall divulge the name of the informant to any person; and
- (d) no person shall disclose any information obtained in any medical examination, test or x-ray of a worker made or taken under this Act except in a form calculated to prevent the information from being identified with a particular person or case.

Compellability,
civil suit

(2) An inspector or a person who, at the request of an inspector, accompanies an inspector, or a person who makes an examination, test, inquiry or takes samples at the request of an inspector is not a compellable witness in a civil suit or any proceeding, except an inquest under the Coroners Act respecting any information, material, statement or test acquired, furnished, obtained, made or received under this Act or the regulations.

Power of
Director
to disclose

(3) A Director may communicate or allow to be communicated or disclosed information, material, statements or the result of a test acquired, furnished, obtained, made or received under this Act or the regulations.

Copies of
reports

35. A Director may, upon receipt of a request in writing from the owner of a work place who has entered into an agreement to sell the same and upon payment of the fee or fees prescribed, furnish to the owner or a person designated by him copies of reports or orders of an inspector made under this Act in respect of the work place as to its compliance with subsection (1).

Liability of
certain
persons

36. - (1) No action or other proceeding for damages, prohibition, or mandamus lies or shall be instituted against a Director, an inspector, an engineer of the Ministry, a health and safety representative, a committee member, a worker selected by a trade union or trade unions or a worker selected by the workers to represent them for an act or an omission done or omitted to be done by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

(2) Subsection (1) does not, by reason of subsections 5(2) and (4) of the Proceedings Against the Crown Act, relieve the Crown of liability in respect of a tort committed by a Director, and inspector or an engineer of the Ministry to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

PART IX

OFFENCES AND PENALTIES

Penalties

37. - (1) Every person who contravenes or fails to comply with,

- (a) a provision of this Act or the regulations;
- (b) an order or requirement of an inspector or a Director; or
- (c) an order of the Minister,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than twelve months, or to both.

Idem

(1a) Where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed upon the corporation is \$250,000 and not as provided therein.

Defence

(2) On a prosecution for a failure to comply with,

- (a) subsection 13(1);
- (b) clause 14(1)(b), (c) or (d); or
- (c) subsection 16(1),

it shall be a defence for the accused to prove that every precaution reasonable in the circumstances was taken.

Accused
liable for
acts or
neglect of
managers,
agents, etc.

(3) In a prosecution of an offence under any provision of this Act, any act or neglect on the part of any manager, agent, representative, officer, director or supervisor of the accused, whether a corporation or not, shall be the act or neglect of the accused.

Certified
copies of
documents,
etc., as
evidence

38. - (1) In any proceeding or prosecution under this Act,

- (a) a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister or an inspector;
- (b) a document purporting to be a copy of a notice, drawing, record or other document, or any extract therefrom given or made under this Act or the regulations and purporting to be certified by an inspector; or
- (c) a document purporting to certify the result of a test or an analysis of a sample of air and setting forth the concentration or amount of a biological, chemical or physical agent in a work place or part thereof and purporting to be certified by an inspector,

is evidence of the order, decision, writing or document, and the facts appearing in the order, decision, writing or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without a further proof.

Service of
orders and
decisions

(2) In any proceeding or prosecution under this Act, a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister, a Director or an inspector may be served,

(a) personally in the case of an individual or in case of a partnership upon a partner, and in the case of a corporation, upon the president, vice-president, secretary, treasurer or a director, or upon the manager or person in charge of the work place; or

(b) by registered letter addressed to a person or corporation mentioned in clause (a) at his or its last known place of business,

and the same shall be deemed to be good and sufficient service thereof.

Place of
trial

39. - (1) An information in respect of an offence under this Act may, at the election of the informant, be heard, tried and determined by the provincial offences court having jurisdiction in the county or district in which the accused is resident or carries on business although the subject-matter of the information did not arise in that county or district.

Provincial
judge
required

(2) The Attorney General or an agent for the Attorney General may by notice to the clerk of the court having jurisdiction in respect of an offence under this Act require that a provincial judge preside over the proceeding.

Limitation
on prosecu-
tions

40. No prosecution under this Act shall be instituted more than one year after the last act or default upon which the prosecution is based occurred.

PART X

REGULATIONS

Regulations

41. - (1) The Lieutenant Governor in Council may make such regulations as are advisable for the health or safety of persons in or about a work place.

Idem

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

1. defining any word or expression used in this Act or the regulations that is not defined in this Act;
2. designating or defining any industry, work place, employer or class of work places or employers for the purposes of this Act, a part of this Act, or the regulations or any provision thereof;
3. exempting any work place, industry, activity, business, work, trade, occupation, profession, constructor, employer or any class thereof from the application of a regulation or any provision thereof;
4. limiting or restricting the application of a regulation or any provision thereof to any work place, industry, activity, business, work, trade, occupation, profession, constructor, employer or any class thereof;
5. respecting any matter or thing that is required or permitted to be regulated or prescribed under this Act;

6. respecting any matter or thing, where a provision of this Act requires that the matter or thing be done, used or carried out or provided as prescribed;
7. respecting any matter or thing, where it is a condition precedent that a regulation be made prescribing the matter or thing before this Act or a provision of this Act has any effect;
8. providing for and prescribing fees and the payment or refund of fees;
- 8a. **prescribing circumstances under which a constructor shall cause the workers to select more than one health and safety representative and prescribing the number to be selected;**
- 8b. **prescribing classes of work places for which and circumstances under which a committee shall consist of more than four persons and in each case prescribing the number of persons;**
9. regulating or prohibiting the installation or use of any machine, device or thing or any class thereof;
10. requiring that any equipment, machine, device, article or thing used bear the seal of approval of an organization designated by the regulations to test and approve the equipment, machine, device, article or thing and designating organizations for such purposes;
11. respecting the reporting by physicians and others of workers affected by any biological, chemical or physical agents or combination thereof;

12. regulating or prohibiting atmospheric conditions to which any worker may be exposed in a work place;
13. prescribing methods, standards or procedures for determining the amount, concentration or level of any atmospheric condition or any biological, chemical or physical agent or combination thereof in a work place;
14. prescribing any biological, chemical or physical agent or combination thereof as a designated substance;
15. prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal of any designated substance;
16. adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;
17. adopting by reference any criteria or guide in relation to the exposure of a worker to any biological, chemical or physical agent or combination thereof;
18. enabling the Director by notice in writing to designate that any part of a project shall be an individual project for the purposes of this Act and the regulations and prescribing to whom notice shall be given;

19. permitting the Minister to approve laboratories for the purpose of carrying out and performing sampling, analyses, tests, and examinations, and requiring that sampling, analyses, examinations, and tests be carried out and performed by a laboratory approved by the Minister;
20. requiring and providing for the registration of employers of workers;
21. providing for the establishment, equipment, operation and maintenance of mine rescue stations, as the Minister may direct, and providing for the payment of the cost thereof and the recovery of such cost from the mining industry;
- 21a. **prescribing occupational health and safety training programs that employers shall provide;**
22. prescribing forms and notices and providing for their use;
- 22a. **respecting the appointment of physicians who are to conduct a medical examination for the purposes of any provision of this Act or the regulations; and**
23. prescribing building standards for industrial establishments.